IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION **CRIMINAL DOCKET NO.: 5:03CR4**

UNITED STATES OF AMERICA)	
vs.)	ORDER
PHILLIP MORRISON,)	
Defendant.))	
)	

THIS MATTER is before the Court on Defendant's pro se "Motions for New Trial" filed December 9, 2004.1

On July 22, 2004, Defendant was convicted by a jury in this Court for conspiracy to possess with intent to distribute quantities of cocaine and cocaine base; possessing with intent to distribute a quantity of cocaine base; and using and carrying a firearm during and in relation to a drug trafficking crime, and aiding and abetting. On February 1, 2005, judgment was entered and Defendant was sentenced to a term of life plus sixty (60) months. Defendant subsequently filed a Notice of Appeal from the judgment and sentence on February 10, 2005.

Pursuant to Rule 33(b)(1) of the Federal Rules of Criminal Procedure, while a Defendant's direct appeal from a judgment of this Court is pending before the United States Court of Appeals for the Fourth Circuit, this Court may not grant a Defendant's concurrent motion for a new trial until the Court of Appeals remands the case.

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¹ Defendant filed three "Motions for New Trial" alleging that: 1) a government witness knowingly gave false testimony; 2) the government presented false evidence at trial; 3) the government purposely withheld Brady material concerning a government witness (Documents # 451, #452, #453).

Even if the motions were properly before this Court, because this Defendant is represented by counsel, the Court's practice is not to consider such <u>pro se</u> filings absent some written notification by counsel that the motions are supported by the law, are adopted by counsel, and should be treated as any other motion filed in this case.

Since the foregoing reasons are dispositive, the Court will not reach the question whether the motions for new trial were timely filed under Rule 33 of the Federal Rules of Criminal Procedure.

IT IS, THEREFORE, ORDERED that: the Defendant's "Motion for New Trial" is denied.

Signed: May 23, 2005

Richard L. Voorhees

United States District Judge